



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Adress: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,816	03/28/2007	Ole Frilev Olesen	02314-32136.US	9640
20551	7590	05/28/2009	EXAMINER	
THORPE NORTH & WESTERN, LLP. P.O. Box 1219 SANDY, UT 84091-1219			BALLARD, KIMBERLY	
ART UNIT	PAPER NUMBER			
		1649		
MAIL DATE	DELIVERY MODE			
		05/28/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,816	Applicant(s) OLESEN ET AL.
	Examiner Kimberly Ballard	Art Unit 1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 March 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-45 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-26 and 32-34, drawn to a conjugate comprising a full length or fragment of an amyloid protein.

Group II, claim(s) 27-31, drawn to a method for the treatment of an amyloid-related disease in a mammal, comprising administering an antigenic amount of a conjugate comprising an amyloid protein.

Group III, claim(s) 35-38, drawn to a method of producing a polyclonal or monoclonal antibody.

Group IV, claim(s) 39-43, drawn to an antibody having specificity towards an amyloid protein.

Group V, claim(s) 44-45, drawn to a method for the treatment of an amyloid-related disease in a mammal, comprising administering an antibody that has specificity for an amyloid protein.

2. The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking Groups I-V appears to be that they all relate to an antigenic conjugate molecule comprising an amyloid protein or a fragment of an amyloid protein, which when administered as a vaccine, induces the production of anti-amyloid antibodies. However, WO 00/72880 A2 to Schenk et al. (published December 7, 2000)

Art Unit: 1649

teaches immunogenic compositions comprising amyloid- β peptide for use in vaccines and for the treatment of Alzheimer's disease. For example, at pages 28-32, Schenk discloses conjugating amyloid peptides to carrier proteins, such as tetanus toxoid, such as by creating a disulfide linkage between the peptide cysteine residues on one protein and an amide linkage through the ϵ -amino on a lysine (see page 29, lines 10-13). One configuration, called the MAP4 configuration, is shown on page 31. The MAP4 peptide conjugate has branched structures which are produced by initiating peptide synthesis at both the N terminal and side chain amines of lysine, which is essentially identical to the claimed conjugate of present claim 1. Thus, the technical feature linking the inventions of Groups I-V does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

Election of Species

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Amyloid proteins

- a) serum amyloid A protein (ApoSSA)
- b) immunoglobulin light chain
- c) immunoglobulin heavy chain
- d) ApoA1

- e) transthyretin
- f) lysozyme
- g) fibrinogen alpha chain
- h) gelsolin
- i) cystatin C
- j) amyloid beta protein precursor (beta-APP)
- k) betas microglobulin
- l) prion precursor protein (PrP)
- m) atrial natriuretic factor
- n) keratin
- o) islet amyloid polypeptide
- p) synuclein
- q) amyloid beta peptide

Applicant is required, in reply to this action, to elect a single species (i.e., one of a-q) to which the claims shall be restricted if no generic claim is finally held to be allowable. **The reply must also identify the claims readable on the elected species, including any claims subsequently added.** An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

Art Unit: 1649

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Amyloid precursor proteins (species a-p) – claim 6

Amyloid-beta peptide (species q) – claims 7-23

The following claim(s) are generic: 1.

4. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The amyloid proteins each represent unique molecules possessing unique amino acid sequences, nucleic acid sequences, and/or chemical structures that do not share the same structural characteristics, and therefore the species do not relate to a single general inventive concept under PCT Rule 13.1.

5. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during

prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Advisory Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Ballard whose telephone number is 571-272-2150. The examiner can normally be reached on Monday-Friday 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Stucker can be reached on 571-272-0911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kimberly Ballard
Art Unit 1649

/Olga N. Chernyshev/
Primary Examiner, Art Unit 1649